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## NOTICE OF ALLOWANCE AND FEE(S) DUE

76058 7590 08/17/2010

YAHOO! INC. C/O GREENBERG TRAURIG, LLP  
MET LIFE BUILDING  
200 PARK AVENUE  
NEW YORK, NY 10166

EXAMINER

PARK, JEONG S

ART UNIT

PAPER NUMBER

2454

DATE MAILED: 08/17/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/682,636

10/08/2003

Brockton S. Davis

085804-702600

8427

TITLE OF INVENTION: LEARNED UPLOAD TIME ESTIMATE MODULE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	11/17/2010

**THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.**

**THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.**

### HOW TO REPLY TO THIS NOTICE:

#### I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

**IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.**

# **PART B - FEE(S) TRANSMITTAL**

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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

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76058 7590 08/17/2010

**YAHOO! INC. C/O GREENBERG TRAURIG, LLP  
MET LIFE BUILDING  
200 PARK AVENUE  
NEW YORK, NY 10166**

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

## **Certificate of Mailing or Transmission**

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,636	10/08/2003	Brockton S. Davis	085804-702600	8427

TITLE OF INVENTION: LEARNED UPLOAD TIME ESTIMATE MODULE

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	11/17/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
PARK, JEONG S	2454	709-217000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 \_\_\_\_\_
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 \_\_\_\_\_
- 3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies \_\_\_\_\_

4b. Payment of Fee(s); (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number \_\_\_\_\_ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Registration No. \_\_\_\_\_

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,636	10/08/2003	Brockton S. Davis	085804-702600	8427
76058	7590	08/17/2010	EXAMINER	
YAHOO! INC. C/O GREENBERG TRAURIG, LLP MET LIFE BUILDING 200 PARK AVENUE NEW YORK, NY 10166			PARK, JEONG S	
			ART UNIT	PAPER NUMBER
			2454	
DATE MAILED: 08/17/2010				

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 1355 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 1355 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/682,636	DAVIS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	JEONG S. PARK	2454	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 7/8/2010.
2. ☒ The allowed claim(s) is/are 1,4,6-15,18,20-31,34 and 36-49.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

**Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</li> <li>2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br/>Paper No./Mail Date _____</li> <li>4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br/>of Biological Material</li> </ol> | <ol style="list-style-type: none"> <li>5. <input type="checkbox"/> Notice of Informal Patent Application</li> <li>6. <input type="checkbox"/> Interview Summary (PTO-413),<br/>Paper No./Mail Date _____.</li> <li>7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment</li> <li>8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance</li> <li>9. <input type="checkbox"/> Other _____.</li> </ol> |
|--|---|

/NATHAN FLYNN/  
Supervisory Patent Examiner, Art Unit 2454

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Nicholas Martin on 8/3/2010.

Please amend claims 6, 20, 29, and 39.

1. (Previously Amended) A method for providing a learned upload time estimate, comprising:

reviewing, via a computing device, historical uploading information for more than one previous uploads, wherein for each previous upload the historical uploading information comprises a previous upload size and an upload start marker, and a number of files uploaded and a total time the previous upload actually took to complete, wherein the upload start marker is a timestamp;

determining, via the computing device, if there is a match or likeness between uploading information, including a new upload start marker, which is a new timestamp, and an upload size, in total, of one or more files presently

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selected for uploading, and the historical uploading information for any of the previous uploads, wherein the one or more files presently selected for uploading have an average file size, the average file size being a ratio between the upload size and number of files presently selected for upload;

if a match or likeness is found with a particular previous upload, obtaining the total time of the particular previous upload, using its historical uploading information, and using the total time as the upload time estimate for the files presently selected for uploading; and

if a match or likeness is not found, computing an average transfer rate from the historical uploading information for the one or more previous uploads, and deriving from the average transfer rate and upload size an upload time estimate for the files presently selected for uploading and providing the upload time estimate to a user, wherein computing the average transfer rate includes computing a ratio between an aggregate of the previous upload sizes and an aggregate of the total times of the previous uploads, and setting a transfer rate equal to the average transfer rate unless the average file size is smaller than the average transfer rate multiplied by one second, in which case the average transfer rate equals the average file size per second.

2. (Canceled)

3. (Canceled)
4. (Previously Presented) The method as in claim 1, wherein, if a match or likeness is not found, the upload time estimate is derived by computing a ratio between the upload size and the average transfer rate.
5. (Canceled)
6. (Currently Amended) The method as in claim ~~[[2]]~~ 1, wherein for each previous upload determining if there is a match or likeness includes:
  - determining an upload size difference between the previous upload size and the upload size, and
  - determining a difference between the upload start marker and the new upload start marker, the difference being a time difference between the timestamp and the new timestamp if the upload start marker and new upload start marker are the timestamp and new timestamp, respectively, new timestamps, wherein a match or likeness is found if the difference fits a predetermined event criteria and the upload size difference is within a predetermined range.
7. (Previously Presented) The method as in claim 6, wherein the predetermined event criteria is characterized by the timestamp and new

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timestamp being of the same-day and same-time or of the same-day but times differing by a predetermined period within which traffic load conditions are similar.

8. (Previously Presented) The method as in claim 6, wherein the predetermined event criteria is characterized by the timestamp and new timestamp being a weekend and weekday, respectively, or vise-versa, and times differing by a predetermined period within which traffic load conditions are similar.

9. (Previously Presented) The method as in claim 6, wherein the predetermined range is a percentage of the upload size.

10. (Previously Presented) The method as in claim 1, further comprising:  
determining whether any previous uploads have been tracked; and  
based on existence or nonexistence of historical uploading information for any previous uploads determining whether or not to provide the upload time estimate.

11. (Previously Presented) The method as in claim 1, further comprising:  
determining whether historical upload information for the one of more previous uploads has been retrieved from a data structure; and



if not, retrieve the historical upload information for the one of more previous uploads.

12. (Previously Presented) The method as in claim 11, wherein the data structure is registry settings.

13. (Previously Presented) The method as in claim 1, wherein the historical uploading information is saved for up to a predetermined number of previous uploads.

14. (Previously Presented) The method as in claim 13, wherein the predetermined number of previous uploads is a parameter supplied by a server.

15. (Previously Amended) A method for tracking historical uploading information in order to provide a learned upload time estimate, comprising:

initiate uploading, via a computing device, of one or more files selected for uploading and having, in total, an upload size;

saving, via the computing device, a timestamp representing a start time of the initiated uploading;

tracking, via the computing device, the upload of the selected files and upon completion of the upload determining the stop time and the total time the upload took,

wherein the total time, timestamp, and upload size become part of historical uploading information that is used in a subsequent upload of one or more newly selected files having, in total, a new upload size an average file size, the average file size being a ratio between the upload size and number of files presently selected for upload, the subsequent upload having a new timestamp, the historical upload information of more than one previous uploads, including the just completed upload and the number of files uploaded, being used in the subsequent upload to determine if information, including the upload size and new timestamp, of the newly selected one or more files matches or nearly matches the historical uploading information such that:

upon finding a match or near match with the historical uploading information for any previous upload, the upload estimate is set to the total time of the previous upload as to which the match or near match has been found; and

upon a failure to find a match or near match with the historical uploading information for any previous upload, an average transfer rate is computed from the historical uploading information of the previous uploads, the average transfer rate and the upload size being used in providing an upload time estimate for the one or more newly selected files, wherein computing the average transfer rate includes computing a ratio between an aggregate of the previous upload sizes and an aggregate of the total times of the previous uploads, and setting a transfer rate equal to the average transfer rate unless the average file size is smaller than the average transfer rate multiplied by one second and the number

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of files is greater than a predetermined number, in which case the transfer rate equals the average file size per second.

16. (Canceled)

17. (Canceled)

18. (Previously Presented) The method as in claim 15, wherein, if a match or near match is not found, the upload time estimate is derived by computing a ratio between the upload size and the average transfer rate.

19. (Canceled)

20. (Currently Amended) The method as in claim ~~[[16]]~~ 15, wherein for each previous upload determining if there is a match or near match includes:

determining an upload size difference between the upload size of that previous upload and the new upload size, and

determining a time difference between the timestamp of that previous upload and the new timestamp, wherein a match or near match is found if the time difference fits a predetermined time criteria and the upload size difference is within a predetermined range.

21. (Previously Presented) The method as in claim 20, wherein the predetermined time criteria is characterized by the timestamp of a previous upload and the new timestamp being of the same-day and same-time or of the same-day but times differing by a predetermined period within which traffic load conditions are similar.

22. (Previously Presented) The method as in claim 20, wherein the predetermined time criteria is characterized by the timestamp of a previous upload and the new timestamp being a weekend and weekday, respectively, or vice-versa, and times differing by a predetermined period within which traffic load conditions are similar.

23. (Previously Presented) The method as in claim 20, wherein the predetermined range is a percentage of the upload size.

24. (Previously Presented) The method as in claim 15, further comprising storing the historical uploading information in a data structure.

25. (Previously Presented) The method as in claim 24, wherein the data structure is registry settings.

26. (Previously Presented) The method as in claim 15, wherein the historical uploading information is saved for up to a predetermined number of previous uploads.

27. (Previously Presented) The method as in claim 26, wherein the predetermined number of previous uploads is a parameter supplied by a server.

28. (Previously Presented) The method as in claim 15, wherein the upload time estimate is provided to a user for display.

29. (Currently Amended) A computer system for providing learned upload time estimates<sub>1</sub>[[;]] comprising:

a processor; and

a memory with program code for causing the processor to perform the steps of:

reviewing, via a computing device, historical uploading information for more than one previous uploads, wherein for each previous upload the historical uploading information comprises a previous upload size and an upload start marker, and a number of files uploaded and a total time the previous upload actually took to complete, wherein the upload start marker is a timestamp;

determining, via the computing device, if there is a match or likeness

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between uploading information, including a new upload start marker, which is a new timestamp, and an upload size, in total, of one or more files presently selected for uploading, and the historical uploading information for any of the previous uploads, wherein the one or more files presently selected for uploading have an average file size, the average file size being a ratio between the upload size and number of files presently selected for upload;

if a match or likeness is found with a particular previous upload, obtaining the total time of the particular previous upload, using its historical uploading information, and using the total time as the upload time estimate for the files presently selected for uploading; and

if a match or likeness is not found, computing an average transfer rate from the historical uploading information for the one or more previous uploads, and deriving from the average transfer rate and upload size an upload time estimate for the files presently selected for uploading and providing the upload time estimate to a user, wherein computing the average transfer rate includes computing a ratio between an aggregate of the previous upload sizes and an aggregate of the total times of the previous uploads, and setting a transfer rate equal to the average transfer rate unless the average file size is smaller than the average transfer rate multiplied by one second, in which case the average transfer rate equals the average file size per second.

30. (Previously Presented) The computer system as in claim 29, wherein the

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computer system is operative to establish communications with the client via the Internet.

31. (Previously Presented) The computer system as in claim 29, operative to provide the upload time estimate to the client for display to an end user.

32. (Canceled)

33. (Canceled)

34. (Previously Presented) The computer system as in claim 29, wherein, if a match or likeness is not found, the program code causes the processor to derive the upload time estimate by computing a ratio between the upload size and the average transfer rate.

35. (Canceled)

36. (Previously Presented) The computer system as in claim 30, wherein the program code for causing the processor to determine if there is a match or likeness includes further program code for causing the processor to perform, for each previous upload, the steps of:

determining an upload size difference between the previous upload size and the upload size, and

determining a difference between the upload start marker and new upload start marker, the difference being a time difference between the timestamp and the new timestamp if the upload start and new upload start markers are the timestamp and new timestamp, respectively, wherein a match or likeness is found if the time difference fits a predetermined event criteria and the upload size difference is within a predetermined range.

37. (Previously Presented) The computer system as in claim 36, wherein the predetermined event criteria is characterized by the timestamp and new timestamp being of the same-day and same-time or of the same-day but times differing by a predetermined period within which traffic load conditions are similar.

38. (Previously Presented) The computer system as in claim 36, wherein the predetermined event criteria is characterized by the timestamp and new timestamp being a weekend and weekday, respectively, or vise-versa, and times differing by a predetermined period within which traffic load conditions are similar.



39. (Currently Amended) [[A]] The computer system as in claim 36, wherein the predetermined range is a percentage of the upload size.

40. (Previously Presented) The computer system as in claim 29, wherein the program code causes the processor to perform the further steps of:

determining whether any previous uploads have been tracked; and

based on existence or nonexistence of historical uploading information for any previous uploads determining whether or not to provide the upload time estimate.

41. (Previously Presented) The computer system as in claim 29, wherein the memory contains a data structure, and wherein the program code causes the processor to perform the further steps of:

determining whether historical upload information for the one of more previous uploads has been retrieved from the data structure; and

if not, retrieve the historical upload information for the one of more previous uploads.

42. (Previously Presented) The computer system as in claim 41, wherein the data structure is registry settings.

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43. (Previously Presented) The computer system as in claim 29, operative to save the historical uploading information for up to a predetermined number of previous uploads.

44. (Previously Presented) The computer system as in claim 43, wherein the system includes a server operative to supply a parameter specifying the predetermined number of previous uploads.

45. (Previously Presented) The computer system as in claim 29, in which the one or more files are self-extracting executable (.exe) files or files including JPEG (Joint Photographic Experts Group) JPEG (Joint Photographic Experts Group), GIF (Graphic Interchange Format), PNG (Portable Network Graphics) or BMP (bit mapped) formatted files.

46. (Previously Presented) The computer system as in claim 29, further comprising:

a host server; and

an upload server, both the host and upload servers in communications with the client via a network.

47. (Previously Presented) The computer system as in claim 46, wherein the host server is operative to send html (hypertext markup language) pages to the

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client, wherein the client is operative to upload the one or more files to the upload server, and wherein the upload server is operative to indicate failure or success of file uploads.

48. (Previously Presented) The computer system as in claim 46, wherein the html pages contain features of a file uploader tool, including file selection, via browsing and drag-drop operations, and wherein the upload time estimate changes along with additional selections of files before they are uploaded to the upload server.

49. (Previously Presented) The compute system as in claim 48, wherein the files contain image data of photos and wherein further features of the uploader tool include photo preview.

### **REASONS FOR ALLOWANCE**

1. Claims 1, 4, 6-15, 18, 20-31, 34, and 36-49 will be allowed.
2. The following is an examiner's statement of reasons for allowance:  
  
The prior art of record does not provide for nor suggests providing for as follows:

A method for providing a learned upload time estimate, comprising:

determining, via the computing device, if there is a match or likeness between uploading information and the historical uploading information for any of the previous uploads, wherein the one or more files presently selected for uploading have an average file size, the average file size being a ratio between the upload size and number of files presently selected for upload (see, e.g., applicant's published specification paragraph [0033]); and

if a match or likeness is not found, computing an average transfer rate from the historical uploading information for the one or more previous uploads, and deriving from the average transfer rate and upload size an upload time estimate for the files presently selected for uploading and providing the upload time estimate to a user, wherein computing the average transfer rate includes computing a ratio between an aggregate of the previous upload sizes and an aggregate of the total times of the previous uploads, and setting a transfer rate equal to the average transfer rate unless the average file size is smaller than the average transfer rate multiplied by one second, in which case the average transfer rate equals the average file size per second (see, e.g., applicant's published specification paragraph [0033] and [0037]).

The prior art (Chmaytelli et al. U.S. Pub. No. 2002/0194325 A1) discloses as follows:

Data transfer rates are calculated while user of wireless device browses application programs for download and/or purchase. Wireless device utilizes data

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transfer rates and information representing size of selected application program to estimate length of time required to download application program onto the wireless device and displays estimate to user (see, e.g., Abstract); and

The estimated length of time to download is based on data transfer rates calculated during a set period of time prior to the download request (see, e.g., page 2, paragraph [0018]).

For these reasons, in conjunction with the other limitations of the independent claim, puts this case in condition for allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEONG S. PARK whose telephone number is (571)270-1597. The examiner can normally be reached on Monday through Friday 7:00 - 3:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on 571-272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. S. P./  
Examiner, Art Unit 2454

August 3, 2010

/NATHAN FLYNN/

Supervisory Patent Examiner, Art Unit 2454